




Speech By
Hon. Yvette D'Ath

MEMBER FOR REDCLIFFE

Record of Proceedings, 1 December 2021

MOTION

Dissent from Speaker's Ruling

 **Hon. YM D'ATH** (Redcliffe—ALP) (Leader of the House) (6.21 pm): I rise to oppose the motion moved by the member for South Brisbane, a motion of dissent from the Speaker's ruling of 17 November 2021. This ruling was made by the Speaker of the Legislative Assembly on the morning of 17 November 2021 and deals with a private member's bill which was introduced by the member for South Brisbane on 27 October 2021 titled Big Bank Levy (COVID-19 Health Response) Bill 2021. The explanatory notes to the now discharged bill of the member for South Brisbane states—

The Bill will enact a 0.05% levy on the five biggest banks operating in Queensland ...

Parking to one side any potential constitutional issues with that proposed bill, the bill seeks to impose a levy thus creating a revenue source. As the Speaker stated in his ruling on 17 November 2021 at page 3533 of the *Record of Proceedings*, 'The Bill is clearly a Revenue Bill.'

Before I get to the standing orders and the reasoning I will outline, I will reflect on the debate and the comments made in support of the member for South Brisbane's motion. It is one thing to bring advice and to rely on or seek to put an argument around why there should be a dissent from the Speaker's ruling, but I believe that the language used around that dissent does reflect on the Speaker and the intent behind that finding, and I think that is offensive.

A motion of dissent from the Speaker's ruling is very rare in this chamber, for good reason. It is a reflection on the chair and it should only be done in the most serious of situations, with the clearest of evidence to support it. Although the member for South Brisbane seeks to rely on some advice, again, the language that was used is certainly seeking to impugn the Speaker in the intent behind that decision-making. Having said that, standing order 2(2) states—

Where statute, these Standing Orders, Sessional Orders or practice of the House do not provide for a matter, the Speaker in determining the correct procedure, may make reference to the rules, forms and practices of other Parliaments operating under the Westminster system.

The Speaker in this instance, on advice, I presume from the Clerk of the Parliament, looked at Erskine May and also *House of Representatives Practice*, which it was appropriate to do. The Speaker's ruling states—

House of Representatives Practice also provides:

'Financial initiative of the Executive'.

What is called the 'financial initiative of the executive'—that is, the constitutional and parliamentary principle that only the Government may initiate or move to increase appropriations or taxes—plays an important part in procedures for the initiation and processing of legislation.

As someone who has served in this chamber for a number of years and also in the Australian parliament, in particular in the House of Representatives, I understand the importance of convention. Not every action or rule that we follow in this chamber is written down in statute, standing orders or

sessional orders; sometimes it comes from convention. Putting a bit of paper over one's head during a division if a member wishes to seek the call to raise a point of order—this is a convention. Nodding to the Speaker as they enter and leave the chamber as a sign of respect—this is a convention. Not discussing the absence of a member in a speech in this chamber, which some members forget about—this is a convention. These conventions are enforced and we know that the Speaker will pull us up on these conventions. Convention is a form of practice which this parliament and other parliaments within the Westminster system operate within.

While I understand that the two Greens members are disappointed in relation to their bill being discharged, it is certainly not the first time that Greens members of this chamber have not understood the standing and sessional orders or the conventions and practices of this House.

The member for South Brisbane talks about the black letter of the law. Reading the black print in the standing orders and sessional orders would be a good start. I know that the member for South Brisbane has been a member of this chamber for only 396 days and the member for Maiwar has been a member for 1,467 days, so they could be forgiven for not knowing how this place works. I remember that during the last term the member for Maiwar tried to move an amendment to a bill and, from memory, he could not work out how or just gave up and indicated what was the point. It makes you think that perhaps the voters of Maiwar probably think the same thing. We know that the Greens members of this chamber have had issues with the standing rules and orders before and do not fully comprehend them. Just last year, the member for Maiwar was found in contempt by the Ethics Committee—

Mr BERKMAN: Mr Speaker, I rise to a point of order. As the member for South Brisbane was brought back to the procedural substance of the motion, I ask that you make a ruling on the Leader of the House's current contribution.

Mr SPEAKER: Thank you, member for Maiwar. As you would appreciate, I also gave some latitude to the member for South Brisbane in her contribution. Leader of the House, there is some relevance to that point of order. I ask you to come back to the substantive procedural motion.

Mrs D'ATH: Prior to this debate the two Greens members forwarded to the Speaker and the Clerk correspondence from academics and lawyers who hold a different view. That is their prerogative. The Greens have canvassed the views of members of the legal profession and academics with alternative views and opinions. That is fine. Everyone has the right to a view and their opinion. It is unfortunate that we do not know exactly what the Greens members asked the individuals. I note that the authors of one piece of correspondence did not canvass parliamentary convention and the other did not detail in full advice on this matter. Regardless, the Speaker's ruling stands. The ruling has taken into consideration a number of elements and, at the end of the day, it comes back to standing order 2, which states—

Where statute, these Standing Orders, Sessional Orders or practice of the House do not provide for a matter, the Speaker in determining the correct procedure, may make reference to the rules, forms and practices of other Parliaments operating under the Westminster system.

This is exactly what has occurred in this situation. The Speaker, on advice, looked at Erskine May and other jurisdictions, such as the House of Representatives, and made a determination.

As I said at the start of this debate, I also wish to point out to the Greens members that, although any member has a right to move dissent from a Speaker's ruling, such a motion is extremely rare. I just checked with the Clerk; he can only recall two in the last 15 years. I am happy to go back and double-check that, but there have been roughly two in the last 15 years. It is extremely rare due to the seriousness of such an action and should only be done in circumstances where a clear case exists of a very serious matter. I hope that this does not become an ongoing behaviour of the Greens every time they are not successful in following the standing orders or understanding convention or are just generally dissatisfied with a ruling.

I support the Speaker's ruling, the government supports the Speaker's ruling and I call on all members of this House to support the Speaker's ruling.